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A Voice for Housing and Justice

March 30, 2016

By Electronic Mail

Region 3 Freedom of Information Officer U.S. EPA, Region 3 1650 Arch Street (3CG00) Philadelphia, PA 19103 (215) 814-2050

Re:

Freedom of Information Act Request

Dear Region 3 Freedom of Information Officer:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"), I write on behalf of the Washington Legal Clinic for the Homeless ("WLCH") to request information, as described in detail further below, from the United States Environmental Protection Agency ("EPA") Region 3 relating to the Washington Metropolitan Area Transit Authority ("WMATA") Bladensburg Bus Facility ("Facility") located at 2250 and 2251 26th Street NE, Washington, DC 20002.

We hereby request all records relating to the environmental impact of the Facility, including records related to air emissions, wastewater discharge, and waste at the Facility. This request includes, but is not limited to:

- 1. The Facility's annual air emissions inventory (on a pollutant-by-pollutant basis) over the past 10 years;
- All permitting materials associated with the construction and operation of the Facility (including Clean Air Act construction permit applications, Clean Air Act Title V permit applications, Clean Air Act Title V permits) over the past 10 years;
- 3. All records relating to formal and/or informal enforcement action(s) taken against the Facility (e.g., notices of violation, complaints, etc.) for environmental matters over the past 10 years;
- 4. All records relating to reports or submissions to EPA or any other agent of the Federal government regarding the Facility's environmental impact, including air emissions, wastewater discharges, etc. over the past 10 years;







5. Any other records regarding the Facility's environmental impact, including air emissions, wastewater discharges, etc. over the past 10 years;

Defined Terms

The term "EPA" as used herein refers to the United States Environmental Protection Agency and includes all headquarters and regional offices, including Region III, and all officers, staff, agents, consultants, political appointees and employees thereof.

The term "records" as used herein includes the original and all non-identical copies, however produced or reproduced, of any written or graphic matter, as well as computer files, including but not limited to writings, handwritings, drawings, graphs, charts, maps, correspondence, faxes, electronic mail (i.e., e-mails), attachments to electronic mail, any other electronic communications, notes of telephone conversations or of meetings or conferences, minutes of meetings, interoffice communications, memoranda, studies, analyses, results of investigations, photographs, sound recordings, electronically stored information, other data compilations from which information can be obtained, and any other documentary material, regardless of physical form or characteristics.

The term "relating to" as used herein means addressing, constituting, mentioning, discussing, describing, reflecting, identifying, dealing with, consisting of, explaining, referring to, containing, enumerating, or in any way concerning or pertaining to, in whole or in part, directly or indirectly.

FOIA Response

The records requested herein relate to the environmental permitting, compliance, and operations of the Facility.

We believe that these records are not exempt from disclosure. If EPA should deny access to any records covered by this request, however, please describe in detail each of those records and specify the statutory basis claimed for denial as well as any reasons for asserting that claim. As you know, FOIA provides that if only a portion of a record is exempt from release, all reasonably segregable portions shall be provided. Thus, if EPA asserts that a portion of a record that we have requested is exempt, please provide us with a copy of the remainder of the record. If EPA asserts that the exempt portions cannot be reasonably redacted, please state in detail the reasons for that assertion.

Please provide the requested material at the earliest possible date, and, in any event, please provide as complete a response as possible to this request within the twenty (20) day period prescribed by FOIA. Please forward currently available records as soon as possible and others as they become available.

Fee Waiver

WLCH is a 30-year-old nonprofit, tax-exempt organization dedicated to providing free, comprehensive legal services to low- and no-income individuals and families throughout the District of Columbia. WLCH provides services to help our clients gain access to housing, shelter, and life-saving services.

WLCH intends to use the requested records to benefit the general public by sharing the records with interested residents and community groups, and by making the records available for public inspection. WLCH intends to analyze and disclose relevant portions of the information received to our clients, representatives and members of the District of Columbia Government, the federal government, and the general public. This information will be used to analyze the suitability of the proposed location for the new Ward 5 family shelter. This increased access to the records will allow more informed community feedback about the Facility and its potential impact on future residents that would be located in the proposed Ward 5 family shelter.

WLCH hereby requests that EPA waive all fees associated with responding to this request. If EPA does not waive the fees entirely, WLCH requests that it reduce them to the extent possible. As required for a FOIA fee waiver, under 5 U.S.C. § 552(a)(4)(A)(iii), disclosure of the information requested is: (1) in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of the Facility and the suitability of the proposed Ward 5 family shelter, and (2) not in the commercial interest of WLCH or its clients. As described below, WLCH and this request for records meet FOIA's requirements for a fee waiver, as well as the five factors that EPA uses to review fee waiver requests under FOIA, at 40 C.F.R. § 2.107(I).

- The request concerns the operations or activities of the federal government. The
 requested records concern the operations and activities of EPA's Region 3 office, an
 agency of the federal government. In particular, the requested records relate to
 permitting, compliance, and enforcement actions taken by EPA Region 3 with respect to
 the Facility.
- The disclosure is "likely to contribute" to an understanding of federal government operations and activities. The requested records relate to EPA's and/or the D.C. Government's permitting of the WMATA Facility.
- 3. The information will contribute to an understanding of the general public. The requested records are likely to contribute to an understanding of the compliance, permitting, and enforcement status of the Facility. This information in turn will contribute to an understanding and ability to analyze the potential impact of the Facility on future residents of the proposed Ward 5 family shelter. Thus, the information will contribute to the understanding of the current residents living near the Facility, as well as members of the public and potentially impacted parties that have an interest or stake in the siting and construction of the Ward 5 family shelter.
- The information will contribute significantly to public understanding of government operations or activities. The requested records relate to EPA's and/or the D.C. Government's permitting of the WMATA Facility, including the Facility's environmental impacts.
- 5. The requester does not have a commercial interest that would be furthered by the requested disclosure. WLCH is a 30-year-old nonprofit, tax-exempt organization dedicated to providing free, comprehensive legal services to low- and no-income individuals and families throughout the District of Columbia. WLCH provides services to help their clients gain access to housing, shelter, and life-saving services. WLCH does not have a commercial interest that would be furthered by the requested disclosure.

Alternatively, if we are not guaranteed a fee waiver, we are prepared to pay the proper fees for the direct costs of record searches, review, and duplication. If your office estimates that costs will exceed \$250, please call me before complying with this request to obtain my agreement to pay the fees. We also would accept documents via email (amber@legalclinic.org) to reduce costs associated with copying.

I look forward to receiving a response to our request within fifteen business days or earlier, if possible. Please contact me at (202)328-5503 or via e-mail at amber@legalclinic.org if you have any questions concerning this request. Thank you for your assistance in this matter.

Respectfully submitted,

Amber W. Harding Staff Attorney